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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,863	04/12/2004	Andreas Hamburger	321.43756X00	1849

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EXAMINER

FASTOVSKY, LEONID M

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/821,863

**Applicant(s)**

HAMBURGER ET AL.

**Examiner**

Leonid M Fastovsky

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 23-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040514.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 1-22 in the reply filed on 9/29/04 is acknowledged.
2. Claims 23-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claims, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/29/04.

### ***Specification***

3. The abstract of the disclosure is objected to because it contains an extraneous word "invention". Correction is required. See MPEP § 608.01(b).
4. Claim 1 is objected to because of the following informalities: A word between "held" and "said", line 3, is missing. Appropriate correction is required.
5. Claim 11 is objected to because of the following informalities: the word "from", line 2, is misspelled. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
7. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 6 recites the limitation "the longitudinal struts" in claim 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 also recites the limitation "the recesses" in line 2. There is insufficient antecedent basis for this limitation in the claim.

9. Claims 20-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20 and 21 are improper because the metes and bounds of the claims can't be determined. For instance, claim 2 depends from claim 1 and claim 1 already includes an insulating frame, which is also recited in claim 16 from which claim 20 depends.

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-5 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Starck (4,990,748).

Starck teaches a device for receiving ceramic PTC heating elements 31 in the device, with an insulating frame 12 and at least one contact plate 22 held thereby, the contact plate 22 and the frame 12 are frictionally connected (col. 5, lines 63-66), the contact

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plate is held in grooves (Fig. 2), wherein on one side of the contact plate, the frame 12 has crossbars 16 between which the heating elements can be inserted.

As for claims 8-10, the contact plate 22 projects over the frame 12, wherein the projecting end of the contact plate is constructed as terminal lugs 26.

As for claim 11, the frame is made from a polymer Rayton (col. 4, lines 30-35).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 6-7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starck in view of Tellier et al (FR002826829).

Starck discloses substantially the claimed invention, but does not disclose longitudinal struts, bulges and profile tube related to claims 6-7. Tellier discloses a heating device having longitudinal struts 17b and bulges 19 attached to the heating bar 10 and the bar seated in a tube 18. It would have been obvious to one having ordinary skill in the art to modify Starck's invention to include the longitudinal struts and bulges within the tube as taught by Teillier in order to make more rigid and stably structured device.

As for claim 12, the frame is completely closed by part 12e in order to prevent the heating elements from falling from the frame.

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14. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Starck in view of Van Bokestal et al (4,835,370).

Starck teaches substantially the claimed invention, but does not teach a contact plate covered by a polymer ceramic. Van Bokestal discloses a PTC heating device having an insulating polymer ceramic 5 covering a contact plate 4. It would have been obvious to one having ordinary skill in the art to modify Starck's invention to include an insulting layer as taught by Van Bokestal for protection against electric short.

15. Claims 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starck in view of Van Bokestal.

Starck teaches substantially the claimed invention, but does not teach a contact plate covered by a polymer ceramic. Van Bokestal discloses a PTC heating device having an insulating polymer ceramic 5 covering a contact plate 4. It would have been obvious to one having ordinary skill in the art to modify Starck's invention to include an insulting layer as taught by Van Bokestal for protection against electric short.

16. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Starck in view of Van Bokestal and further in view of Roller et al (4,334,141).

Starck in view of Van Bokestal discloses substantially the claimed invention, but does not disclose heating devices in parallel. Roller discloses heating devices 1 in parallel. It would have been obvious to one having ordinary skill in the art to modify the invention of Starck in view of Van Bokestal to include heating devices in parallel as taught by Roller in order to achieve a desired heating effect (Abstract).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Leonid M Fastovsky  
Examiner  
Art Unit 3742

lmf

12/11/04

  
ROBIN O. EVANS  
PRIMARY EXAMINER  
12/13/04